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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Li, et al. **Examiner:** Winston, Randall O.
Serial No.: 10/592,912 **Art Unit:** 1655
Filing Date: September 15, 2006 **Confirmation No.:** 5719
Title: **HERBAL THERAPY FOR THE TREATMENT OF ASTHMA**

ELECTRONICALLY FILED VIA EFS WEB

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Madam:

STATEMENT UNDER 37 C.F.R. §§ 1.56, 1.97, AND 1.98

Pursuant to the duty of disclosure under 37 C.F.R. §§ 1.56, 1.97 and 1.98, Applicant requests consideration of this Information Disclosure Statement.

Type of Statement

The present Information Disclosure Statement is:

An *original* Information Disclosure Statement; or
 A *supplemental* Information Disclosure Statement.

Compliance with 37 CFR § 1.97

The present Information Disclosure Statement is being filed:

- [] Pursuant to 37 CFR § 1.97(b); no fee or certification is required:
- [] Within three months of the filing date of a national application other than a continued prosecution application under § 1.53(d);
- [] Within three months of the date of entry of the national stage as set forth in § 1.491 in an international application;
- [] Before the mailing of a first Office action on the merits; or
- [] Before the mailing of a first Office action after the filing of a request for continued examination under § 1.114.
- [X] Pursuant to 37 CFR § 1.97(c) after the dates listed above but before the mailing date of any of a final action under § 1.113, a notice of allowance under § 1.311, or
an action that otherwise closes prosecution in the application; Applicant hereby certifies that *either*:
- [] each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement; or
- [] That no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in § 1.56(c) more than three months prior to the filing

of the information disclosure statement; or

[X] Includes herewith the fee set forth in § 1.17(p),

[] Pursuant to 37 CFR § 1.97(d), after the mailing date of any final action under § 1.113, a notice of allowance under § 1.311, or an action that otherwise closes prosecution in the application; Applicant hereby *both*:

[] Certifies that *either*:

[] each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement; or

[] That no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in § 1.56(c) more than three months prior to the filing of the information disclosure statement; and

[] Includes herewith the fee set forth in § 1.17(p).

Content of the Information Disclosure Statement

Applicant hereby makes of record in the above-identified application the reference(s) listed on the attached form PTO-1449 (modified). The order of presentation of the references should not be construed as an indication of the importance of the references.

Applicant includes copies of references as indicated below:

A copy of each of the references cited on the attached form PTO/SB/08 (modified) is enclosed, except for U.S. patents and published U.S. patent applications for which the submission requirement has been waived by the PTO in the Official Gazette Notice of August 5, 2003, for applications filed after June 30, 2003. Also, copies of references previously provided to the United States Patent Office in an Information Disclosure Statement that complies with 37 CFR § 1.98(a)-(c) and submitted in an application that is relied upon in the present case for an earlier effective filing date under 35 USC § 120 are not included herewith.

Applicant hereby makes the following additional information of record in the above-identified application:

Applicant certifies that the Information Disclosure Statement *either*:

Does not contain non-English language citations;

Includes one or more translations of a non-English citation; or

Does contain a non-English language citation, JP 2000 044481A (Sunstar Inc.,

February 15, 2000). At this time, Applicants do not have an English translation of this reference. An English translation of the Abstract of this reference is provided herewith. Should the Examiner wish to review an English translation of this reference, Applicants will obtain the necessary translation.

Remarks

The submission of this Information Disclosure Statement should not be construed as a representation that a search has been made.

The submission of this Information Disclosure Statement shall not be construed to be an admission that the information cited in the statement is, or is considered to be, material to patentability as defined in § 1.56(b) .

The submission of this Information Disclosure Statement shall not be construed as a representation that the information cited in the Statement is, or is considered to be, in fact, prior art as defined by 35 USC § 102.

It is respectfully requested that:

1. The Examiner consider completely the cited information, along with any other information, in reaching a determination concerning the patentability of the present claims;
2. The enclosed form PTO-1449 be signed by the Examiner to evidence that the cited patent(s) and publication(s) has (have) been fully considered by the Patent and Trademark Office during the examination of this application; and
3. The citations for the patent(s) and publication(s) be printed on any patent which issues from this application.

Notwithstanding any statements by Applicants, the Examiner is urged to form his or her own conclusions regarding the relevance of the cited reference(s).

Respectfully submitted,

Dated: July 28, 2009

/Margo H. Furman/

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